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# United States Senate

SELECT COMMITTEE ON INTELLIGENCE

(PURSUANT TO S. RES. 430, 94TH CONGRESS)

WASHINGTON, D.C. 20510

Executive Registry

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September 22, 1982

The Honorable William J. Casey  
Director of Central Intelligence  
Washington, D.C. 20505

Dear Mr. Casey:

*Bill*

This letter is to reconfirm the understanding between this Committee and the Intelligence Community regarding the handling of Congressional documents under both Freedom of Information Act (FOIA) and Privacy Act requests.

It is this Committee's intent to ensure that Congressional documents be exempt from disclosure under these Acts on the ground that such documents are not records of an agency within the meaning of 5 U.S.C. (a)(4)(B) and (e). Accordingly, this Committee has consistently requested Intelligence agencies not to disclose Congressional documents under these Acts unless the Committee has provided prior written consent.

"Congressional documents" is defined to include all documents, records, materials or information

- 1) generated by this Committee; or
- 2) generated by an Intelligence agency in response to any inquiry, investigation, or other action by this Committee in the exercise of its authorized functions. This includes summaries or any other record of a communication between the Intelligence agency and Committee which could reveal the existence or nature of such inquiry, investigation or other such Committee action.

Congress has undoubted authority rooted in the Constitution, its rules and prior practices to preserve the secrecy of its documents. It has been and continues to be this Committee's intent that the materials described above remain under the "control" of the Committee and the U.S. Senate. Therefore, it is understood that access to Congressional documents as defined above will be restricted to those agency or other Executive Branch personnel who need to use such documents to carry out the agency's relationship with the Committee, to respond to Committee inquiries, or to defend the Congressional exemption status of the documents, unless there is consent by the Committee.

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As stated above, any Congressional document must have our written consent before it can be released. If there is any question whether a document is a Congressional document; the Intelligence agency in possession should consult with the Committee. This procedure will ensure that the Committee decides if the Congressional document exemption should be asserted, thereby avoiding unintentional compromise of Congressional control over our own documents. Of course, Congress' decision to either approve or disapprove release does not preclude the agency from asserting other bases for withholding under the Acts.

This Committee has exchanged with the Intelligence agencies considerable sensitive information and documents. For historical and practical reasons, this exchange is essential to the consultative and deliberative process between Congress and the Executive Branch. Furthermore, such exchange is crucial to the proper and effective exercise of this Committee's oversight function and to the integrity of the legislative process. It is necessary to continue this exchange if this Committee is to discharge its obligations to the American people and to the U.S. Senate. Unilateral release of Congressional information under these Acts would seriously impair the effectiveness of this Committee's intelligence oversight and legislative functions. This Committee believes that disclosure of such documents without its consent would violate the policies underlying the Speech or Debate clause of Article I of the Constitution. For all these reasons, the Committee must insist upon prior coordination before Congressional documents requested pursuant to these Acts are publicly released.

Strict security procedures apply to all the Committee's intelligence records which are received from Intelligence agencies. All classification markings placed on a document by an agency will be honored and no classified information will be publicly released by a member or staff, except as provided in S. Res. 400. The Committee also reaffirms it will not publicly disclose any documents or information exchanged in confidence between the Committee and Intelligence agencies without prior agency coordination. Neither of our interests will be served unless we both agree to recognize each other's requirements for confidentiality.

For purposes of this Agreement, "Committee" includes the Senate Select Committee on Intelligence (SSCI); its predecessor, the Select Committee to Study Governmental Operations with Respect to Intelligence Activities (established pursuant to S. Res. 21, 94th Cong.); the SSCI staff, and any outside consultants of the SSCI.

We would appreciate your sending the Committee a letter confirming that the above accurately sets forth your understanding of our agreement regarding

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Congressional documents and that the Intelligence community will continue to operate under this agreement.

Sincerely,



Barry Goldwater  
Chairman



Daniel Patrick Moynihan  
Vice Chairman